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OCT 01 2004

Paper No. 13

In re Application of

Richard L. Cloud

Application No. 08/983,332

Filed: March 5, 1998

For: Circuit Apparatus and Configuration
For Refrigerator Systems

Director's Office
Group 3700

: DECISION ON PETITION

This is a decision on the petition originally filed on June 19, 2000, as resubmitted on August 6, 2003 and February 5, 2004. The petition is a petition to withdraw the holding of abandonment for failure to pay the issue fee. The petition is being considered pursuant to 37 CFR 1.181. No fee is required for the petition.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Notice of Allowance or Notice of Allowability. Office records show that these papers were mailed on February 4, 2003, to applicant.

A review of the file history and the attachments to the submissions dated August 6, 2003 and February 5, 2004 shows the following:

1. This application as originally filed included a power of attorney in favor of David W. Carrithers. See the declaration filed with the original application papers.
2. On December 2, 1998, a petition to withdraw as attorney was filed by Mr. Carrithers. The petition was effective when approved on December 18, 1998. See paper No. 6; see also 37 CFR 1.36 and MPEP § 402.06.
3. The petition to withdraw requested that the correspondence address be changed to that of Jim Higgins, registration number 29,264 at the firm of Middleton & Reutlinger. Donald G. Kelly, then Director of Group 3700, who was the official who granted the petition specifically approved that change of correspondence address, as indicated by markings appearing on the approved petition.
4. The correspondence address was not in fact changed as approved by Mr. Kelly, but was instead changed to that of applicant.
5. The Notice of Allowance mailed on April 15, 1999 was, therefore, improperly addressed to the applicant, and not to new counsel of record.

Based upon these facts, it is clear that the application is not abandoned because the Office action embodied by paper No. 9 was not mailed to the correct address of record. Accordingly, Notice of Abandonment is hereby vacated, and the holding of abandonment is withdrawn, and the application is restored to pending status.

This application is being forwarded to the Head Supervisory Applications Examiner to accomplish the following:

1. Entry of the new Power of Attorney and Correspondence Address that is attached as the last two pages of the paper dated February 5, 2004. The correspondence address should then agree precisely with the address at the bottom of this Decision.
2. Mailing a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto.

The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

PETITION GRANTED.



Richard A. Bertsch, Director
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